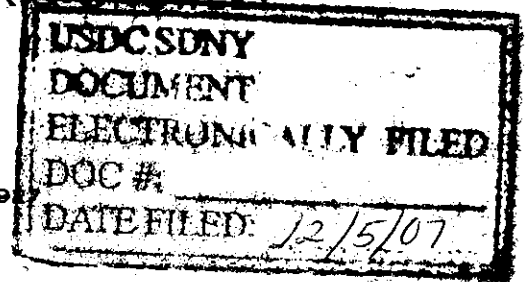


GALLAGHER GOSSEEN FALLER & CROWLEY  
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ROBERT I. GOSSEEN  
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December 5, 2007

NEW YORK CITY OFFICE:  
380 FIFTH AVENUE  
SUITE 4810  
NEW YORK, N.Y. 10118-4398  
(212) 947-5800  
FAX: (212) 967-4965

Via Facsimile: (212) 805- 7933

Hon. Andrew J. Peck, USMJ  
United States District Court for the  
Southern District of New York  
500 Pearl Street (Room 620)  
New York, New York 10007

MEMO ENDORSED - 12

Re: Best-Simpson v. New York Organ Donor Network, et al.,  
Case No:07 CV 2683 (BSJ) (AJB)

Dear Judge Peck:

We are the Attorneys for New York Organ Donor Network, Elaine Berg, Individually and in her Professional Capacity, Michele Clayton Lucas, Individually and in her Professional Capacity, Julia Rivera, Individually and in her Professional Capacity, Martin Woolf, Individually and in his Professional Capacity, Robert Gosseen and Gallagher Gosseen Faller & Crowley.

No Disclosures; No Responses

As of today's date we still have not received plaintiff's refined Initial Disclosures, nor her responses to our outstanding discovery demands, all of which were due in our hands, pursuant to the Court's directive at the November 20, 2007 conference, on December 4, 2007.

Subpoenas for Health Records

As plaintiff has failed or refused to furnish signed authorizations for her medical records we respectfully request the Court to "So Order" the attached subpoenas for the following records:

1. Dr. Leon Scrimmager (who stated in his 11/19/2007 letter that plaintiff has been a patient of his for the past ten years); and

GALLAGHER GOSSEEN FALLER & CROWLEY

Hon. Andrew J. Peck, USMJ  
December 5, 2007  
Page 2

2. Workers' Compensation Board (in plaintiff's complaint at ¶ 256 she claims her ADHD was triggered due to mold exposure from her Workers' Compensation Claim).

If Your Honor will kindly "So Order" the attached subpoenas, we will be able to get the necessary records without further delay. We would like to have the original subpoenas personally picked up if they are "So Ordered" if this is acceptable to the Court.

Respectfully submitted,

GALLAGHER GOSSEEN FALLER & CROWLEY

By:

**Robert I. Gosseen**

Robert I. Gosseen (RG4207)  
Attorneys for the NYODN and GGF&C Defendants  
1010 Franklin Avenue (Suite 400)  
Garden City, New York 11530  
(516) 742-2500  
(212) 967-4965 (fax)

Enclosures

RIG/fm

cc: Jane Best-Simpson (via e-mail and regular mail) (w/ encls.)  
William Miller, Esq. (via facsimile) (w/ encls.)

**MEMO ENDORSED** 12/7/07

1. The Court has signed the 2 subpoenas (copies attached) and the original copies are being picked up by the attorneys.  
2. The Court will hold a hearing on 12/10 at 3:30 PM in Courtroom 209 to discuss Mr. Best-Simpson's motion to compel the Court to order the original copies of the subpoenas to be picked up by the attorneys.  
SO ORDERED:

**BY FAX**

Hon. Andrew Jay Peck  
United States Magistrate Judge

Copy: Ms. Best-Simpson (email), Mr. Miller (fax)  
Court Clerk

AO88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the  
UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT

DISTRICT OF

NEW YORK

JANE BEST-SIMPSON

SUBPOENA IN A CIVIL CASE

V.

NEW YORK ORGAN DONOR NETWORK, ET

Case Number: 07cv2683 (BSJ)(AJP)

TO: DR. LEON SCRIMMAGER  
210 West 86th Street - Suite 505  
New York, New York  
(212) 249-1627

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

Gallagher Gosseen Faller & Crowley, 350 Fifth Avenue, Suite 4810, New York, New York 10118

DATE AND TIME

December 17, 2007

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Any and all records relating to Jane Best-Simpson including but not limited to physicians reports, examinations, testing and evaluations, referring neurologist, psychologist and gastroenterologist reports

PLACE

Gallagher Gosseen Faller & Crowley, 350 Fifth Avenue, Suite 4810, New York, NY 10118

DATE AND TIME

December 17, 2007 @ 10:00 a.m.

☒ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

Gallagher Gosseen Faller & Crowley, 350 Fifth Avenue, Suite 4810, New York, NY 10118

DATE AND TIME

December 17, 2007 @ 10:00 a.m.

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

Seth W. Berman, Esq. (SB/7405) - Attorney for Defendants

DATE

December 5, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Seth W. Berman, Gallagher Gosseen Faller & Crowley, 1010 Franklin Avenue, Suite 400, Garden City, New York 11530, (516) 742-3100

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

Hon. Andrew Jay Beck  
United States Magistrate Judge

AO88 (Rev. 1/94) Subpoena in a Civil Case

## PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

AO88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the  
UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT

DISTRICT OF

NEW YORK

JANE BEST-SIMPSON

SUBPOENA IN A CIVIL CASE

V.

NEW YORK ORGAN DONOR NETWORK, ET

Case Number: 07cv2683 (BSJ)(AJP)

TO: STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
215 W. 125th Street  
New York, NY 10027

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below testify in the above case.

|                    |               |
|--------------------|---------------|
| PLACE OF TESTIMONY | COURTROOM     |
|                    | DATE AND TIME |

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

|   |                                    |
|---|------------------------------------|
| PLACE OF DEPOSITION<br>Gallagher Gosseen Faller & Crowley, 350 Fifth Avenue, Suite 4810, New York, New York 10118 | DATE AND TIME<br>December 17, 2007 |
|---|------------------------------------|

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Any and all records relating to Case #00519289, date of injury 05/09/03 including but not limited to physicians reports, psychiatric and/or therapist reports, legal action.

|   |   |
|---|---|
| PLACE<br>Gallagher Gosseen Faller & Crowley, 350 Fifth Avenue, Suite 4810, New York, NY 10118 | DATE AND TIME<br>December 17, 2007 @ 10:00 a.m. |
|---|---|

☒ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

|  |   |
|--|---|
| PREMISES<br>Gallagher Gosseen Faller & Crowley, 350 Fifth Avenue, Suite 4810, New York, NY 10118 | DATE AND TIME<br>December 17, 2007 @ 10:00 a.m. |
|--|---|

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

|   |                          |
|---|--------------------------|
| ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)<br>Seth W. Berman, Esq. (SB/7405) - Attorney for Defendants | DATE<br>December 5, 2007 |
|---|--------------------------|

|   |  |
|---|--|
| ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER<br>Seth W. Berman, Gallagher Gosseen Faller & Crowley, 1010 Franklin Avenue, Suite 400, Garden City, New York 11530, (516) 342-2500<br>(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page) | ORDERED:<br>Hon. Andrew Jay Peck<br>United States Magistrate Judge |
|---|--|

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

AO88 (Rev. 1/94) Subpoena in a Civil Case

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

# FAX TRANSMITTAL SHEET



**ANDREW J. PECK  
UNITED STATES MAGISTRATE JUDGE  
UNITED STATES DISTRICT COURT**

Southern District of New York  
United States Courthouse  
500 Pearl Street, Room 1370  
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933  
Telephone No.: (212) 805-0036

**Dated:** December 5, 2007

**Total Number of Pages:** 7

| TO  | FAX NUMBER   |
|---|--------------|
| Robert I. Gosseen, Esq.                       | 516-742-2516 |
| William Miller, Esq.<br>Eric Proshansky, Esq. | 212-788-1633 |
|   |              |

## **TRANSCRIPTION:**

### **MEMO ENDORSED 12/5/07**

1. The Court has signed the 2 subpoenas (copies attached) and Mr. Gosseen can pick up the originals.
2. The Court will hold a conf. on 12/10 at 3:30 p.m. in Courtroom 20D to discuss Ms. Best-Simpson's failure to comply with Court discovery orders as raised by Mr. Gosseen's 2d letter of today.

**Copies to:** Jane Best-Simpson (Email)  
Judge Barbara S. Jones